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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/816,722	04/01/2004	Dennis W. Fleege	CRC-166/47181-00288USPT	1028

23569 7590 04/24/2006  
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EXAMINER

DONOVAN, LINCOLN D

ART UNIT PAPER NUMBER

2832

DATE MAILED: 04/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/816,722

Applicant(s)

FLEEGE ET AL.

Examiner

Lincoln Donovan

Art Unit

2832

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 11-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 18-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 April 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 07-09-04.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

Claims 11-17 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected claimed invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 02-27-06.

Applicant's election with traverse of the restriction in the reply filed on 02-27-06 is acknowledged. The traversal is on the ground(s) that the restriction should be withdrawn. This is not found persuasive because the method claimed includes steps necessitating further search and/or considerations.

The requirement is still deemed proper and is therefore made FINAL.

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the conductive cable must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet,

and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-10 and 18-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 2, there is no antecedent basis for "the conductive cable." In line 4, applicant should clarify what is meant by "extending past *the* to fit." It is not clear what the tab extends past. In lines 4-5, applicant should clarify whether the "a circuit breaker" is intended to be the same circuit breaker as that recited in line 1.

In claim 3, line 3, there is no antecedent basis for "the armature."

In claim 4, line 1, there is no antecedent basis for "the first portion."

In claim 5, applicant should clarify the specific structure intended.

In claim 8, applicant should clarify what is intended by the "armature pivot coupled to the load terminal brace in place after assembly."

In claims 9-10, applicant should clarify the mounting and structure of the rib with the "armature pivot." It is assumed that applicant intends the armature pivot and rib to be element 92 shown in figures 9-10, as stated in the specification.

In claim 18, in line 4, applicant should clarify the structure intended by "to be inserted." In line 5, the phrase "such that the" is unclear.

In claim 21, in lines 5-6, the phrase "adapted to" is unclear because it has been held that the recitation that an element is "adapted to" perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re Hutchison*, 69 USPQ 138.

In claim 23, the structure of the "gap" between the second end and the curved bend is not clear.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Felden et al. [US 6,556,111] in view of Klein et al. [US 3,534,195].

Regarding claims 1-2, 18-21, Felden et al. discloses a load terminal assembly [figure 4] for use in a circuit breaker comprising a main load terminal [19] to connect a bimetal strip [27] to a conductive cable.

Felden et al. disclose everything claimed except a load brace located on top of the main load terminal having at least one tab extending past the main load terminal to fit into a corresponding pocket of the circuit breaker housing.

Klein et al. discloses a brace member [22, figure 5] connected to a load terminal [96] via a mounting screw [28] having a pair of tabs [110] extending past the load terminal to fit into corresponding pockets [106] of a circuit breaker housing [24].

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the brace member of Klein et al. with the main load terminal of Felden et al. in order to provide additional strength to the load terminal.

Regarding claims 3 and 8, Felden et al. discloses an armature pivot support [figure 1] coupled with the terminal brace supporting a conductive armature member [21].

Regarding claims 4-5 and 22, Felden et al. discloses the load terminal having a first arm and a second arm parallel therewith connected via a curved bend [figure 4].

Regarding claims 6, Klein et al. further discloses the brace having a first end and a second end generally perpendicular to the first end [figure 5].

Regarding claims 9-10, Felden et al. further discloses the armature support including a rib [figure 1].

It would have been obvious to one of ordinary skill in the art at the time the invention was made to engage the brace with the rib in order to fit both the armature pivot support and brace within the bend.

Claims 7 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Felden et al., as modified, as applied to claim 1 above, and further in view of Malingowski et al. [US 2002/0093404].

Felden et al., as modified, disclose everything claimed except for the brace abutting the first arm of the main load terminal formed a gap between the second end of the brace and the curved bend of the main load terminal.

Malingowski et al. discloses a brace being mounted to abut a bent of a load terminal with a gap therebetween [figure 1].

It would have been obvious to one of ordinary skill in the art at the time the invention was made to form a gap between the second end of the brace and the curved bend of the main load terminal of Felden et al., as modified, as suggested by Malingowski et al., in order to accommodate expansion due to increased temperatures under load.

### ***Conclusion***


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Leone et al. [US 4,654,490].

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lincoln Donovan whose telephone number is 571-272-1988. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Elvin Enad can be reached on 571-272-1990. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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